

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

GREGORY TURLEY, #N-08083,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. 08-cv-0007-MJR
)	
DANNY BEDINGER, et al.,)	
)	
Defendants.)	

**MEMORANDUM AND ORDER
REGARDING SEVERANCE OF CLAIMS**

REAGAN, District Judge:

In a February 11, 2011 Order (Doc. 22), the Court found that Count 5 was unrelated to the claims presented in the other counts of Plaintiff's complaint. The Order advised Plaintiff of the Court's intention to sever Count 5 into a separate lawsuit. The Court gave Plaintiff until March 28, 2011 to voluntarily dismiss that claim, so as to avoid the imposition of an additional filing fee.

The Court has received a motion from Plaintiff requesting that severance be reserved (Doc. 65). Essentially, Plaintiff states that he does not wish to voluntarily dismiss Count 5, and he does not want it severed into a new action either. Plaintiff was given a choice to either dismiss the claim or have it severed into a new case. Plaintiff's failure to make that choice means that the Court will make the decision for him. The Court **DENIES** Plaintiff's motion to reserve severance (Doc. 65). The Court will sever Count 5 into a new action. The Counts remaining in *this* action are:

COUNT 1: Against Defendant Bedinger for excessive force;

COUNT 2: Against Defendants Bedinger, Murray, Thomas, Ramos, Conder, Martin, Ohlau, J. Cowan, Uchtman, Kellerhouse, Waller, and McDaniel for retaliation;

COUNT 3: Against Defendants Blagojevich, Walker Jr., Meek, Uchtman, Cox, Martin, Conder, Ohlau, Spiller, Ramos, Waller, McDaniel, Baskins, and John Does for Eighth Amendment violations; and

COUNT 4: Against Defendant Hulick for failure to protect.

IT IS HEREBY ORDERED that **COUNT 5** is **SEVERED** into a new case. That new case shall be: Claim against **Defendant Broshears** for due process violations. The new case **SHALL BE ASSIGNED** to the undersigned District Judge for further proceedings. In the new case, the Clerk shall file the following documents:

- (1) This Memorandum and Order;
- (2) The Original Complaint (Doc. 1);
- (3) Plaintiff's motion to proceed *in forma pauperis* (Doc. 20).

The only claims remaining in this action are **COUNTS 1, 2, 3, and 4** against **Defendants BEDINGER, MURRAY, THOMAS, RAMOS, CONDER, MARTIN, OHLAU, J. COWAN, UCHTMAN, KELLERHOUSE, WALLER, and MCDANIEL.** Defendants HULICK, BLAGOJEVICH, WALKER JR., MEEK, COX, SPILLER, BASKINS and JOHN DOES have already been dismissed from this action with prejudice.

Defendant **BROSHEARS** is **DISMISSED** from *this* action with prejudice. This case shall now be captioned as: **TURLEY, Plaintiff, vs. BEDINGER, MURRAY, THOMAS, RAMOS, CONDER, MARTIN, OHLAU, J. COWAN, UCHTMAN, KELLERHOUSE, WALLER, and MCDANIEL, Defendants.**

IT IS SO ORDERED.

DATED March 29, 2011.

/s/ MICHAEL J. REAGAN
Michael J. Reagan
United States District Judge